

Sexually Dangerous Person  
Expert Testimony

**Commonwealth v. Connors**  
Supreme Judicial Court, July 19, 2006

*A respondent in a sexually dangerous persons proceeding may not offer his own psychiatric expert's testimony based on personal interviews unless he also submits to interviews with the court-appointed qualified examiners.*

The Commonwealth filed a petition to civilly commit the respondent as a sexually dangerous person (SDP). In accordance with the statute, two qualified examiners attempted to interview the respondent prior to trial. The respondent declined to be interviewed; retained his own psychiatric expert; and sought to offer his expert's testimony at trial. The judge refused to allow the respondent's expert to offer testimony based on personal interviews with the respondent.

While the SJC agreed that the respondent had the right to refuse to speak with the qualified examiners, the court upheld the judge's order. To hold otherwise "would offend basic notions of fairness" and place the Commonwealth at a sharp disadvantage because it would not be able to effectively rebut the respondent's expert testimony. "The judge's order that the defendant submit to interviews with court-appointed experts as a consequence of presenting his own expert testimony or have the interview-based portion of the evidence excluded, did not violate constitutional privileges against self-incrimination or the patient-psychotherapist privilege." The defendant still could have introduced his own expert testimony if that testimony was not based on personal interviews with him.